

Effective 5/10/2016

34A-6-203 Discharge or retaliation against employee prohibited.

- (1) A person may not discharge or in any way retaliate against an employee because the employee:
 - (a) files a complaint or institutes or causes to be instituted a proceeding under or related to this chapter;
 - (b) testifies or is about to testify in any proceeding under or related to this chapter; or
 - (c) exercises a right granted by this chapter on behalf of the employee or others.
- (2)
 - (a) An employee who believes that the employee has been discharged or otherwise retaliated against by any person in violation of this section may, within 30 days after the violation occurs, file a complaint with the division alleging discharge or retaliation in violation of this section.
 - (b)
 - (i) Upon receipt of the complaint, the division shall cause an investigation to be made.
 - (ii) The division may employ investigators as necessary to carry out the purpose of this Subsection (2).
 - (c) Upon completion of the investigation, the division shall issue an order:
 - (i)
 - (A) finding a violation of this section has occurred;
 - (B) requiring that the violation cease; and
 - (C) which may include other appropriate relief, such as reinstatement of the employee to the employee's former position with back pay; or
 - (ii) finding that a violation of the section has not occurred.
 - (d) An order issued under Subsection (2)(c) is the final order of the commission unless a party to the claim of a violation of this section seeks further review as provided in Subsection (3).
- (3)
 - (a) A party to a claim of a violation of this section may seek review of the order issued under Subsection (2)(c) within 30 days from the date the order is issued by filing a request for review with the Division of Adjudication.
 - (b) The request for review shall comply with Subsection 63G-4-301(1).
 - (c) If the request for review is made, the Division of Adjudication shall conduct a de novo review of the underlying order.
 - (d) If the request for review is based on a finding that a violation of this section occurred, the division shall appear in the review proceeding to defend the division's finding.
 - (e) If the request for review is based on a finding that a violation of this section did not occur, the division may not participate in the review proceeding.
 - (f)
 - (i) If the Division of Adjudication determines a violation of this section has occurred, it may order relief as provided in Subsection (2)(c).
 - (ii) If the Division of Adjudication determines that a violation of this section has not occurred, it shall issue an order stating the determination.
- (4) A party may appeal an order issued by the Division of Adjudication under Subsection (3)(f) in accordance with Subsection 34A-6-304(1).

Amended by Chapter 67, 2016 General Session